

Alla Kachan, Esq.
Law Offices of Alla Kachan, P.C.
3099 Coney Island Avenue, 3rd Floor
Brooklyn, New York 11235
Tel.: (718) 513-3145

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Case No.: 1-19-42357-nhl

New Cafe Minutka, Inc.
d/b/a as Home Made Cooking Cafe

Chapter 11

Debtor.

-----X

**NOTICE OF MOTION OF THE DEBTOR, NEW CAFE MINUTKA, INC., TO
DISALLOW CLAIM NO. 7 OF SHAROF AMINOV**

PLEASE TAKE NOTICE that a hearing to consider the above-captioned Debtor's Motion to disallow Claim No. 7 filed by Sharof Aminov, shall be conducted before the Honorable Judge Nancy Hershey Lord, Chief United States Bankruptcy Judge, **on February 25, 2020 at 11:30 A.M.** at the United States Bankruptcy Court – Eastern District of New York – Brooklyn, 271-C Cadman Plaza East, Courtroom 3577, Brooklyn, New York, 11201 or as soon thereafter as counsel can be heard.

PLEASE TAKE FURTHER NOTICE that any objections to the within Motions must be in writing and must state with particularity the grounds of the objection. The objection must be filed with the Clerk of the Bankruptcy Court electronically at www.nyeb.uscourts.gov, and a copy of the objection must be served upon the undersigned counsel for the debtor so as to be received no later than seven (7) days before the hearing date.

Dated: Brooklyn, New York
January 22, 2020

/s/ Alla Kachan
Alla Kachan, Esq.
Law Offices of Alla Kachan
3099 Coney Island Avenue, 3rd Floor
Brooklyn, NY 11235

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In re:

New Cafe Minutka, Inc.,
d/b/a/ as Home Made Cooking Café

Case No.: 1-19-42357-nhl
Chapter 11

Debtor.

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**MOTION OF THE DEBTOR, NEW CAFE MINUTKA, INC., TO DISALLOW CLAIM
NO. 7 OF SHAROF AMINOV**

Pursuant to 11 U.S.C. § 502, and Fed. R. Bankr. P. 3007, New Cafe Minutka, Inc., (the “Debtor”), by and through its counsel Alla Kachan, Esq., of Law Offices of Alla Kachan, P.C., hereby files this motion for entry of an Order Disallowing Claim No. 7 in the amount of \$223,924.00, filed by Sharof Aminov, on June 10, 2019.

In further support of this Motion, the Debtor respectfully states, as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this objection pursuant to 28 U.S.C. §1391(b) and (c).
2. This objection is a core proceeding pursuant to 28 § U.S.C. §157 (b)(2)(B).
3. Proponent of the Motion for an Order Disallowing Claim No. 7 is the Debtor in a bankruptcy proceeding under Chapter 11 of the Bankruptcy Code and a Motion for an Order to Disallow a Claim is clearly an “allowance or disallowance of claims against the estate or exemptions from property of the estate...”

4. No prior application has been filed for the relief requested herein.
5. The statutory predicates for the relief requested herein are Section 502 of the Bankruptcy Code, and Fed. R. Bankr. P. 3007.

BACKGROUND

6. On April 19, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. *See CM/ECF Doc. No. 1.*

7. The Debtor continues to operate her business and manage her property and assets as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

8. On May 20, 2019, the Debtor by and through her counsel Alla Kachan, Esq., of Law Offices of Alla Kachan, P.C., filed Motion to Set Last Day to File Proofs of Claim (“Bar Date Motion”). *See CM/ECF Doc. No. 13.*

9. On May 31, 2019, the Court granted Debtor’s Bar Date Motion. It was ordered by the Court, that all persons and entities, (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts and governmental units) that assert a claim, as defined in section 101(5) of 11 U. S. C. §§ 101 et seq. (the “Bankruptcy Code”), against Debtor which arose prior to the filing of the Chapter 11 petition on April 19, 2019 shall file a proof of such claim in writing so that it is received on or before July 18, 2019, and that proofs of claim filed by governmental units must be filed on or before October 16, 2019. *See CM/ECF Doc. No. 20.*

10. On June 10, 2019, Sharof Aminov filed unsecured Claim No. 7 (the “Claim”). Total amounts of the filed claims are \$223,924.00 for unpaid wages, overtime, liquidated damages and penalties. The priority claim - \$13,650.00. Further, on August 29, 2019, the claim was amended. *See Claims Register (Claim No. 7.)* The Proof of claim is attached herein as **Exhibit A** and **Exhibit B**.

ARGUMENTS

11. The Debtor objects the Claim based on the foregoing:

12. The Creditor failed to attach sufficient documentation to prove that a debt is owed.

Moreover, the proof of claim contains no explanation or breakdown specifying the amount of unpaid wage, the amount of unpaid overtime, and the time period for which the wage was not paid. Therefore, the Creditor did not provide any legitimate and evidential proof of validity and factuality of this claim.

13. Additionally, despite the fact, that the claim was amended on August 29, 2019, the data indicated in the proof of claim was not modified, supplemented, specified or clarified.

14. Furthermore, the Debtor believes, that Sharof Aminov was correctly and fully compensated for all time worked.

15. Therefore, the Debtor now asserts that the Claim should be disallowed or in the alternative, Sharof Aminov, must amend their claim to assert a monetary claim amount.

16. Based on the foregoing and based on any other reasons the Debtor may state on the record at any hearing held in respect of this Motion, the Debtor respectfully requests that the Court enter an order, granting the Motion for an order Disallowing Claim No. 7, or alternately holding an evidentiary hearing allowing the examination of the claim and the evidentiary and factual proof against these claim presented by the Debtor, and granting to the Debtor such other and further relief as this Court may deem just and proper.

Dated: January 21, 2019
Brooklyn, New York

Respectfully Submitted,
/s/ Alla Kachan, Esq.
Alla Kachan, Esq.
Law Offices of Alla Kachan, P.C.
3099 Coney Island Ave, 3rd floor
Brooklyn, NY, 11235

EXHIBIT A

Fill in this information to identify the case:Debtor 1 New Café Minutka, Inc., dba Home Made CookingDebtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Eastern District of New York

Case number 19-42357-NHL**Official Form 410****Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	SHAROF AMINOV Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____		
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____		
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? David A. Feinerman, Esq. Name 2765 Coney Island Avenue, 2nd floor Number Street Brooklyn NY 11235 City State ZIP Code Contact phone 718-646-4800 Contact email esqdaf@aol.com	Where should payments to the creditor be sent? (if different) David A. Feinerman, Esq. Name 2765 Coney Island Avenue, 2nd floor Number Street Brooklyn NY 11235 City State ZIP Code Contact phone 718-646-4800 Contact email esqdaf@aol.com	
Uniform claim identifier for electronic payments in chapter 13 (if you use one): -----			
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY		
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____		

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	\$ 223,924.00 Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Unpaid wages and overtime, liquidated damages and penalties</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
	Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
	Amount necessary to cure any default as of the date of the petition: \$ _____
	Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?		<input type="checkbox"/> No	Amount entitled to priority
		<input checked="" type="checkbox"/> Yes. Check one:	
		<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
		<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
		<input checked="" type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ 13,650.00
		<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
		<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
		<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(_____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it.

FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.

18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/10/2019
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name	David A. Feinerman, Esq.		
	First name	Middle name	Last name
Title	Attorney for creditor		
Company	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	2765 Coney Island Avenue, 2nd floor		
	Number	Street	
	Brooklyn		NY 11235
	City	State	ZIP Code
Contact phone	718-646-4800		Email esqdaf@aol.com

EXHIBIT B

Fill in this information to identify the case:Debtor 1 New Café Minutka, Inc., dba Home Made CookingDebtor 2 _____
(Spouse, if filing) _____

United States Bankruptcy Court for the: Eastern District of New York

Case number 19-42357-NHL**Official Form 410****Proof of Claim**

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Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

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3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? David A. Feinerman, Esq. Name 2765 Coney Island Avenue, 2nd floor Number Street Brooklyn NY 11235 City State ZIP Code Contact phone <u>718-646-4800</u> Contact email <u>esqdaf@aol.com</u>		Where should payments to the creditor be sent? (if different) David A. Feinerman, Esq. Name 2765 Coney Island Avenue, 2nd floor Number Street Brooklyn NY 11235 City State ZIP Code Contact phone <u>718-646-4800</u> Contact email <u>esqdaf@aol.com</u>
Uniform claim Identifier for electronic payments in chapter 13 (if you use one): -----			
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on <u>MM / DD / YYYY</u>		
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____		

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6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim? \$	223,924.00. Does this amount include interest or other charges?
	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. Unpaid wages and overtime, liquidated damages and penalties
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____
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	Amount necessary to cure any default as of the date of the petition: \$ _____
	Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Check one:	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input checked="" type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ 13,650.00
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(_____) that applies.	\$ _____

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Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/10/2019
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name	<u>David A. Feinerman, Esq.</u>		
	First name	Middle name	Last name
Title	<u>Attorney for creditor</u>		
Company	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	<u>2765 Coney Island Avenue, 2nd floor</u>		
	Number	Street	
	<u>Brooklyn</u>	<u>NY</u>	<u>11235</u>
	City	State	ZIP Code
Contact phone	<u>718-646-4800</u>		Email <u>esqdaf@aol.com</u>